

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT K. DECKER,

Plaintiff,

v.

LILITA INFANTE, *et al.*,

Defendants.

/

Case No.: 19-11654

Matthew F. Leitman
United States District Judge

Curtis Ivy, Jr.
United States Magistrate Judge

**ORDER DENYING AS MOOT PLAINTIFF'S MOTION TO CORRECT
CLERICAL ERROR; TO STRIKE HIS FOURTH AMENDED
COMPLAINT; AND FOR LEAVE TO FILE FOURTH AMENDED
COMPLAINT (ECF Nos. 107; 109; 110).**

This matter is presently before the Court regarding Plaintiff's motion to correct a clerical error in his October 4, 2022, fourth amended complaint as well as Plaintiff's motion to strike said complaint and substitute a different fourth amended complaint. (ECF Nos. 107; 109; 110). Plaintiff indicates he seeks to strike and file the instant fourth amended complaint because he was incarcerated in the special housing unit at the time of his October filing and did not have access to a typewriter. (ECF No. 109, PageID.712). He asserts the instant filings are to "delete surplusage" and "to clean up the complaint[.]" (ECF No. 110, PageID.716). In the motion to correct a clerical error, Plaintiff asserted his motion to amend was filed under Fed. R. Civ. P. 15 (c)(3) but he meant to file under Fed. R. Civ. P. (c)(2) and wishes to correct this error. (ECF No. 107, PageID.699).

In this Court's January 10, 2023, order, the Court ordered Plaintiff to file a fourth amended complaint on or before January 31, 2023, that complies with the Court's instructions regarding his amended complaint. (ECF No. 108, PageID.708) (citing ECF No. 93; 97;107)). Because this Court has already provided Plaintiff an opportunity to file a fourth amended complaint in a more final format, the Court concludes each of the motions should be **DENIED AS MOOT**. (ECF Nos. 107; 109; 110). Plaintiff is **ORDERED** to file a Fourth Amended complaint on or before **January 31, 2023**, that complies with this Court's previous instructions. (ECF No. 108) (citing ECF No. 93; 97; 107)). For these reasons, the fourth amended complaint filed January 11, 2023, is **STRICKEN**. (ECF No. 111).

IT IS SO ORDERED.

The parties here may object to and seek review of this Order, but are required to file any objections within 14 days of service as provided for in Federal Rule of Civil Procedure 72(a) and Local Rule 72.1(d). A party may not assign as error any defect in this Order to which timely objection was not made. Fed. R. Civ. P. 72(a). Any objections are required to specify the part of the Order to which the party objects and state the basis of the objection. When an objection is filed to a magistrate judge's ruling on a non-dispositive motion, the ruling remains in effect unless it is stayed by the magistrate judge or a district judge. E.D. Mich. Local Rule 72.2.

Date: January 12, 2023

s/Curtis Ivy, Jr.

Curtis Ivy, Jr.

United States Magistrate Judge

CERTIFICATE OF SERVICE

The undersigned certifies that this document was served on counsel of record and any unrepresented parties via the Court's ECF System or by First Class U.S. mail on January 12, 2023.

s/Kristen MacKay

Case Manager

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